IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.9369 of 2004

Annasaheb Suryabhan Gadakh & ors ..Petitioners
vs
Sinnar Taluka Audyogik Sahakari
Vasahat Ltd Sinnar Dist Nasik & ors..respondents

Mr.Anilkumar Patil for the petitioners

Mr.S.P Kadam for respondent no.l

Mr.Y.D Mulani AGP for respondent nos 2 and 4

CORAM: A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 24.ll.2004

P.C:

Heard learned counsel for the parties.

2. By this petition the petitioners are seeking a declaration that the election programme declared for the election to the respondent no.l Sinnar Taluka Audyogik Sahakari Vasahat Ltd is illegal and void and and also seeking a direction to the respondent nos. 2 to 4 to appoint Competent Officer from the Cooperation Department to act as Election Officer and to hold election to the respondent no.l in accordance with law. The only allegation is that the election programme has commenced from the stage of publication of the final voters list and no draft voters list was

published and objections thereto were invited by the respondents.

3. Paragraphs 6 and 7 of the petition, which are material for our purpose read as under:

> "6. The petitioners state that, the election program was published in the Newspaper "Gavkari" on 8th November 2004, copy of which is annexed hereto as Exhibit D. It is shocking to note that the election program starts from the stage of publication of final voters list. Thus the crucial stage regarding draft voters list and the objections thereto has been bypassed by the respondent.no.l.It is the specific contention of the Petitioners that the various illegalities seem to have been committed and therefore earlier two stages have not been included in the election program. The Petitioners further submit that as per the Election Rules framed and accepted by the respondent no.l the Election Program shows the earlier two stages which are not finding place in the declared election program. Hereto annexed and marked as Exhibit E is true copy of relevant

extract of the election program as contemplated in the Election Rules prepared and accepted by the respondent no.l

7. The petitioners further submit that thus the election program which is declared is exfacie illegal and deserves to be quashed. In fact, the elections on the basis of such illegal program will be void ab initio. The statutory provisions have been flouted regarding the publication of the election program. It is pertinent to note that first the election process has been initiated to the extent of finalization of the voters list and thereafter appointment of election officer is made. Thus the intention of the respondent no.l is absolutely clear to manipulate the elections".

4. The petitioners have reiterated the same allegations in the synopsis stating that "it is shocking to note that the election program starts from the stage of publication of final voters list. Thus the crucial stage regarding draft voters list and the objections thereto has been bypassed by the respondent no.l."

5. The learned counsel for the respondents have produced before us the original records relating to the publication of the election program. It is seen from the record that the draft voters list was published on society's board on 7.ll.2004 and objections were called for from the members. In response to this notice petitioner nos.l and 2 have filed their objections and in fact their objections were partly accepted by the Returning Officer. It is thus clear that the averment made in the petition that the draft voters list was not published and objections were not invited is totally false and mischievous. The petitioners have suppressed the fact that the management had published draft voters list and the petitioners submitted their objections to the said list and the objections were partly accepted. In the circumstances in our opinion this is a fit case for imposing exemplary costs on the petitioners.

6. In the result petition is dismissed with a direction to the petitioners to pay cost of Rs.25,000 to the respondents.